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In re Application of
GRUSS, et al.
Application No.: 10/088,657
PCT No.: PCT/FR00/02611
Int. Filing Date: 20 September 2000
Priority Date: 20 September 1999
Attorney Docket No.: 045636-5056-US
For: LACTIC ACID BACTERIA TRANSFORMED
TO BE PROVIDED WITH RESPIRATORY
METABOLISM

DECISION ON REQUEST

UNDER 37 CFR 1.42

This is a decision on applicant's "Petition And Response to Decision on Request Under 37 C.F.R. § 1.42" filed in United States Patent and Trademark Office (USPTO) on 20 August 2003.

BACKGROUND

On 20 February 2003, applicant was mailed a decision refusing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period was extendable pursuant to 37 CFR 1.136(a).

On 20 August 2003, applicant filed the present response accompanied by a petition for a four-month extension of time and payment of the four-month extension petition fee. With the filing of the petition for a four-month extension of time and payment of the four-month extension petition fee, applicant's renewed petition is considered timely filed.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 20 August 2003 is executed by Anne Michele Bravard Duwat, Charlotte Noemie Duwat and Coralie Manon Duwat as heirs to the estate of the deceased joint inventor Patrick Duwat and provides the heirs' residence, post office address and country of

citizenship. In addition, the declaration provides the residence, post office address and country of citizenship of the deceased joint inventor. Lastly, the renewed petition contains a statement that the individuals are the only known heirs and that no legal representative of the deceased estate has been appointed or is statutorily required to be appointed. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 20 August 2003.

CONCLUSION

Applicant's renewed request for status under 37 CFR 1.42 is GRANTED.

This application will be given an international application filing date of 20 September 2000 and a date of **20 August 2003** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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